

## Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-04 H-01 INR-07  
L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15  
USIA-06 IO-13 ACDA-07 OES-07 DLOS-09 TRSE-00 /094 W  
-----059385 231630Z /50

R 231456Z JUN 77  
FM AMEMBASSY BONN  
TO SECSTATE WASHDC 9292  
INFO AMEMBASSY BERLIN  
AMEMBASSY BRUSSELS  
AMEMBASSY LONDON  
AMEMBASSY MOSCOW  
AMEMBASSY PARIS  
USMISSION USBERLIN  
USMISSION NATO

C O N F I D E N T I A L SECTION 01 OF 03 BONN 10485

USEEC

E.O. 11652: GDS  
TAGS: PGOV, EEC, FR, GE, GW, UR, US, UK, WB  
SUBJECT: EC/SOVIET FISHERIES NEGOTIATIONS: BERLIN  
AND THE TERRITORIAL CLAUSE

REFS: (A) BRUSSELS 5673; (B) BONN 8550

BEGIN SUMMARY: THE UK AND FRENCH HAVE PROPOSED  
DIFFERENT VARIATIONS OF THE PROPOSED TERRITORIAL  
CLAUSE (MEANT TO COVER BERLIN) FOR THE EC/USSR  
FISHERIES AGREEMENT. THE FRG CONTINUES TO BE RELUCTANT  
TO CONSIDER NEW VERSIONS, ALTHOUGH FRG BONN GROUP REPS  
PROMISE THAT THE FOREIGN OFFICE IS SEIZED OF THE  
PROBLEM AND WILL HAVE A RESPONSE TO THE PROPOSALS  
SHORTLY. REPORTS FROM BRUSSELS THAT THE SOVIETS HAVE  
SENT A NEGOTIATING TEAM OF "TECHNICAL" EXPERTS, WHO  
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ARE NOT PREPARED TO NEGOTIATE THE "POLITICAL" QUESTIONS,  
ARE DISTURBING TO THE GERMANS WHO FEAR THAT THEY WILL  
BE ISOLATED IN THEIR INSISTENCE ON AN ADEQUATE  
TERRITORIAL CLAUSE. END SUMMARY

1. AT THE JUNE 20 BONN GROUP MEETING, UK REP (EYERS)  
SPEAKING FROM INSTRUCTIONS, SAID THAT THE UK HAD

RECEIVED HINTS IN BRUSSELS THAT THE SOVIETS MIGHT BE PREPARED TO ACCEPT THE PRESENT PROPOSED FORM OF ARTICLE 10 OF THE EC/USSR FISHERIES AGREEMENT, THE TERRITORIAL CLAUSE INTENDED TO INCLUDE BERLIN, PROVIDED THAT THE WORDS "AND UNDER THE CONDITIONS LAID DOWN IN THAT TREATY" WERE DELETED. HE ASKED WHETHER THE FRG HAD RECEIVED THE SAME INFORMATION.

2. FYI: FOR CONVENIENCE, THE PRESENT PROPOSED ARTICLE 10 AND A FRENCH PROPOSAL PRESENTED AT THE JUNE 3, 1977, BONN GROUP MEETING ARE AS FOLLOWS:

PRESENT PROPOSED ARTICLE 10

"THE PRESENT AGREEMENT SHALL APPLY TO THE TERRITORIES WITHIN WHICH THE TREATY ESTABLISHING THE EUROPEAN ECONOMIC COMMUNITY IS APPLIED AND UNDER THE CONDITIONS LAID DOWN IN THAT TREATY, ON THE ONE HAND, AND TO THE TERRITORY OF THE UNION OF SOVIET SOCIALIST REPUBLICS, ON THE OTHER HAND."

FRENCH PROPOSAL

"THE PARTIES TO THIS AGREEMENT ARE, ON THE ONE HAND, THE EC, THE COMPETENCE OF WHICH EXTENDS (S'EXERCENT) TO THE TERRITORIES WHERE THE TREATY CONFIDENTIAL

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ESTABLISHING THE COMMUNITY IS APPLIED AND UNDER THE CONDITIONS LAID DOWN IN THE TREATY, AND, ON THE OTHER HAND, THE UNION OF SOVIET SOCIALIST REPUBLICS."

THIS FRENCH PROPOSAL WAS PRESENTED AS A COUNTER TO THE UK PROPOSAL OF MAY 16 (PARA 2C, REF B). PARIS WAS UNWILLING TO ACCEPT THE FORMULATION SUGGESTED BY THE UK, THAT THE EEC "COMPRISES THE TERRITORIES TO WHICH THE TREATY ESTABLISHING THE COMMUNITY IS APPLIED."

3. IN RESPONSE TO EYERS, THE FRG LEGAL REP (DUISBERG) SAID THAT THE FRG HAD THE SAME REPORT, DATED MAY 27, BUT CONSIDERED IT SO INCONSEQUENTIAL AS NOT TO HAVE REPORTED IT TO THE BONN GROUP. HE SAID THAT, AT A COCKTAIL PARTY, A MEMBER OF THE DUTCH MISSION IN BRUSSELS HAD BEEN INFORMED BY SOVIET EMBASSY COUNSELOR KUZNETSOV THAT THE USSR MIGHT ACCEPT ARTICLE 10 WITH THE ABOVE-MENTIONED PHRASE DELETED. THE SOVIET OBJECTION TO THE PHRASE IS THAT THE TREATY OF ROME ALLEGEDLY REFERS TO "LAND BERLIN," WHICH THE SOVIETS CANNOT ACCEPT SINCE IN THEIR VIEW BERLIN IS NOT A "LAND" OF THE FRG. DUISBERG SAID THAT THIS WAS NOT A FORMAL SOVIET

PROPOSAL AND HAD NO STANDING, ESPECIALLY SINCE

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INFO AMEMBASSY BERLIN  
AMEMBASSY BRUSSELS  
AMEMBASSY LONDON  
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KUZNETSOV IS A MEMBER OF THE EMBASSY, NOT A MEMBER OF  
THE SOVIET DELEGATION TO THE EC/USSR TALKS.

4. EYERS EXPRESSED THE UK VIEW THAT THE SOVIETS DO  
NOT MAKE SUCH SUGGESTIONS LIGHTLY AND THAT, SINCE THE  
UK REPORT REFERRED TO THE STATEMENT BEING MADE BY  
"SOVIET OFFICIALS," HE HAS THE IMPRESSION THERE HAVE  
BEEN SEVERAL SUCH CONVERSATIONS. HE SAID THE FCO  
BELIEVES THE SOVIETS WILL EXPECT THE EC TO DEVELOP A  
CONSIDERED REACTION TO THE SOVIET SUGGESTION. THE FCO  
BELIEVES THAT THE PROPOSAL IS "BROADLY ACCEPTZBLE" AND  
THAT THE FCO DOES NOT WANT TO RISK THE SUCCESS OF THE  
FISHERIES AGREEMENT BY INSISTENCE ON A PARTICULAR  
PHRASING OF THE TERRITORIAL CLAUSE, SO LONG AS THE  
INTEREST OF BERLIN IS PROVIDED FOR IN THE AGREEMENT.  
AS AN ALTERNATIVE, HE SUGGESTED THAT IT ALSO MIGHT  
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BE POSSIBLE TO KEEP THE PHRASE AS IT IS BUT SUBSTITUTE THE WORDS "AND OTHER APPLICABLE AGREEMENTS" AFTER THE SECOND USE OF "TREATY." THIS WOULD BE AN OBLIQUE REFERENCE TO THE QUADRIpartite AGREEMENT.

5. DUISBERG SAID THAT THE PHRASE "LAND BERLIN" APPEARS IN THE FRG INSTRUMENT OF RATIFICATION OF THE TREATY OF ROME, NOT IN THE TREATY ITSELF, AND QUESTIONED THE VALIDITY OF THE SOVIET OBJECTION. ASKED FOR HIS VIEW AS TO THE UK PROPOSAL, HE EXPRESSED THE "PRELIMINARY VIEW" THAT THE NEW UK FORMULATION WOULD NOT BE HARMFUL TO THE FRG POSITION ON BERLIN. HE SAID THAT THE PHRASE "AND OTHER RELEVANT AGREEMENTS" MIGHT BE AMBIGUOUS AND COULD BE MORE EASILY READ TO REFER TO OTHER EC AGREEMENTS. EYERS SAID THAT THE NEGOTIATIONS MAY RESUME WITHIN THE NEXT WEEK AND ASKED FOR AN URGENT EXPRESSION OF FRG VIEWS. THE FRENCH REP (GAUSSOT) ASKED FOR VIEWS ON THE PROPOSED FRENCH VERSION.

6. AT THE JUNE 21 BONN GROUP MEETING, FRG REP (LUECKING) SAID SOMEWHAT INDIGNANTLY THAT THE FRG HAD HEARD FROM BRUSSELS THAT THE SOVIETS WERE TRYING A TACTIC WHICH THE FRG HAD FEARED ALL ALONG. THE SOVIETS HAVE REPORTEDLY SENT A DELEGATION OF "TECHNICAL" EXPERTS WHO HAVE EXPRESSED A DESIRE TO SETTLE ONLY "TECHNICAL" QUESTIONS, LEAVING THE "POLITICAL" QUESTIONS IN THE TREATY UNTIL LATER. THE FRG CONSIDERS THE WILLINGNESS OF THE EC NEGOTIATORS TO ENTER SUCH DISCUSSIONS A VIOLATION OF THE COUNCIL RESOLUTION OF MAY 3, WHICH HE SAID CALLED FOR STRICT PARALLELISM OF POLITICAL AND TECHNICAL NEGOTIATIONS. THE FRG HAS INSTRUCTED ITS REPRESENTATIVES TO SAY THAT THE EC NEGOTIATORS SHOULD INSIST ON THIS PARALLELISM AT THE NEXT ROUND OF

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NEGOTIATIONS AND TO ASK THE SOVIETS DIRECTLY WHETHER THEY ARE PREPARED TO DISCUSS THE OPEN POLITICAL QUESTIONS. BILATERAL NEGOTIATIONS ON THESE QUESTIONS ARE NOT ACCEPTABLE TO THE FRG.

7. EYERS SAID THAT IT WAS BECAUSE OF THE UK FEAR OF THIS POSSIBILITY THAT THE UK HAS PUSHED FOR ALTERNATIVE VERSIONS OF THE TERRITORIAL CLAUSE. LUECKING PROMISED TO HAVE A CONSIDERED FOREIGN OFFICE RESPONSE SHORTLY.

8. COMMENT: THE FOREGOING IS A TYPICAL REFLECTION

OF THE FRG AND UK EXCHANGES IN THE BONN GROUP ON THE  
PROPOSED TERRITORIAL CLAUSE. THE UK CONTINUES TO

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C O N F I D E N T I A L SECTION 03 OF 03 BONN 10485

PRESS FOR A NEW FORMULATION WHICH IT "HOPES"  
WILL BE ACCEPTABLE TO THE USSR AND THE FRG CONTINUES  
TO RESIST NEW FORMULATIONS, BOTH BECAUSE IT FEARS THE  
INCLUSION OF BERLIN WILL NOT BE ADEQUATELY ASSURED AND  
BECAUSE IT DOES NOT TRUST THE EC NEGOTIATORS TO PRO-  
TECT BERLIN'S INTEREST. THE FRG HAS THUS REFUSED TO  
EXPRESS AN OPINION ON THE UK REDRAFT OF MAY 16 OR THE  
FRENCH COUNTER TO THAT OF JUNE 3. EC NEGOTIATORS'  
ALLEGED WILLINGNESS TO SETTLE THE SUBSTANTIVE QUESTIONS  
IN THE DRAFT TREATY, LEAVING THE BERLIN ISSUE ASIDE,  
MAKES THE GERMANS FEAR THAT THEY WILL FIND THEMSELVES  
ISOLATED AS THE SINGLE PARTY HOLDING UP AN IMPORTANT  
AGREEMENT ON GROUNDS WHICH THE OTHER EC PARTNERS  
DO NOT REGARD AS PARTICULARLY IMPORTANT.

9. THERE IS A FUTILITY, IN OUR VIEW,  
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TO UK AND FRENCH EFFORTS TO COME UP WITH VARIANTS ON THE TERRITORIAL CLAUSE WHICH MIGHT PROVE MORE PALATABLE TO THE SOVIETS. THE BASIC ISSUE REMAINS, AND SO FAR WE HAVE SEEN NO INDICATION OF SOVIET WILLINGNESS TO ACCEPT ANY TERRITORIAL CLAUSE. NEVERTHELESS, IN KEEPING WITH STANDING INSTRUCTIONS, US REPS HAVE IN GENERAL LEFT THE DEBATE TO THE OTHER THREE REPS AS AN ISSUE WHICH HINGES ON A MORE INTIMATE KNOWLEDGE OF THE NEGOTIATING SITUATION THAN THE US POSSESSES.

10. SHOULD A STANDOFF BE REACHED BETWEEN THE UK AND THE FRG AS TO WHETHER OR NOT A PARTICULAR TERRITORIAL CLAUSE WOULD IN FACT ASSURE THE INCLUSION OF BERLIN, THE US WOULD BE CALLED UPON TO TAKE A STAND. THE US IS COMMITTED TO THE PROPOSITION THAT THE TREATY SHOULD APPLY TO BERLIN, AND WE SHARE THE FRG VIEW ON THE PRECEDENTIAL IMPORTANCE OF THE FISHING AGREEMENT FOR ALL FUTURE NEGOTIATIONS BETWEEN THE EC AND CEMA COUNTRIES. WE WILL HOPE FOR A CLAUSE THAT WILL ENABLE US, IN FUTURE EXCHANGES WITH THE SOVIETS, TO ASSERT THAT IT WAS CLEARLY INTENDED THAT BERLIN WAS INCLUDED.  
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